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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,483	07/01/2003	Michael Geva	TRIQ-121076CI	3308
27964	7590	02/18/2004	EXAMINER WANG, GEORGE Y	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			ART UNIT 2871	PAPER NUMBER

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/611,483	GEVA ET AL.	
	Examiner	Art Unit	
	George Y. Wang	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnham et al. (U.S. Patent No. 4,546,480, from hereinafter "Burnham") in view of Beernink et al. (U.S. Patent No. 5,708,674, from hereinafter "Beernink").

Burnham discloses an electronic device and method of making an electronic device having an active region (fig. 4, ref. 36) located over a substrate (fig. 4, ref. 32).

Burnham teaches an undoped layer with a barrier region made up of a number of barrier layers between a plurality of undoped layers (col. 5, lines 48-56).

However, the reference fails to specifically disclose that the active layer is under the barrier layer.

Beernink discloses an electronic device having an active layer (fig. 3, ref. 13) situated beneath a barrier layer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have disposed the active layer beneath the barrier layer since one would be motivated to create a device with minimal layers (col. 2, lines 30-35). By preventing unwanted layers, fabrication would not only be more cost effective and more readily manufactured, it would prevent unwanted introductions of impurity. This would ultimately enhance reliability and minimize accompanying drawbacks (col. 3, lines 1-4).

3. Claims 2-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnham et al. (U.S. Patent No. 4,546,480, from hereinafter "Burnham") in view of DePoorter (WO 97/50133).

Burnham discloses an electronic device and method of making an electronic device having an active region (fig. 4, ref. 36) located over a substrate (fig. 4, ref. 32). Burnham teaches an undoped layer with a barrier region made up of a number of barrier layers between a plurality of undoped layers (col. 5, lines 48-56). Furthermore, the reference discloses barrier layers composed of aluminum arsenide with 5-50% aluminum composition (col. 5, lines 48-56), and having a thickness of about 1 nm and

where the undoped layers each have a thickness of about 10 nm (col. 1, lines 23-34).

The Burnham reference also teaches that there are no p-n junctions between the barrier and doped cladding.

Although the reference teaches a doped upper cladding (fig. 4, ref. 41), Burnham does not disclose it as being doped with zinc. Furthermore, the reference does not specifically teach the barrier region inhibiting the diffusion of zinc into the active region.

DePoorter discloses a semiconductor diode with an upper cladding doped with zinc (abstract). Furthermore, the reference teaches a barrier region that inhibits the diffusion of zinc into the active region (pg. 3, lines 21-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have doped the upper cladding with zinc and to construct zinc-inhibitive properties to the barrier layers since one would be motivated to alternatively have a high and low bandgap value (pg. 3, lines 21-35). Such values render the barrier layers highly effective and reliable in practice since zinc-inhibition in the layers encourage highly thin layers that have mechanical stress without the defects caused by degradation of charged ions, such as zinc atoms (pg. 3, lines 21-35).

4. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent No. 5,212,704, from hereinafter "Chen") in view of Burnham and Beernink.

Chen discloses an optical fiber communication system (fig. 8, ref. 80) with a transmitter (fig. 8, ref. 81) and a receiver (fig. 8, ref. 85) connected by an optical fiber

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(fig. 8, ref. 831). In addition, the system includes a source (abstract). Although Chen discloses an electronic device embedded in the transmitter or receiver, the reference fails to specifically disclose an electronic device having an active region located over a substrate, an undoped layer having a barrier region of multiple barrier layers, and each including aluminum, and a doped upper cladding layer located over the barrier region.

Burnham and Beernink disclose an electronic device having an active region located over a substrate, an undoped layer having a barrier region of multiple barrier layers, and each including aluminum, and a doped upper cladding layer located over the barrier region as recited above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the electronic device of Burnham since one would be motivated to reduce and eliminate defects in manufacture and variations due to high laser temperatures (col. 2, lines 41-68).

Double Patenting


5. Claims 1-20 of this application conflict with claims 1-20 of Application No. 09/757099. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Y. Wang whose telephone number is 571-272-2304. The examiner can normally be reached on M-F, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1562.


ROBERT H. KIM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

gw
January 26, 2004